

MOSER LAW FIRM, P.C.



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November 8, 2019

VIA ECF

Hon. Steven I. Locke, USMJ
United States District Court
Eastern District of New York
100 Federal Plaza
PO Box 9014
Central Islip, New York 11722

Re: Mendez et al v. U.S. Nonwovens Corp. et al,
Case No. 12-cv-05583-SIL

Dear Judge Locke:

I represent the Plaintiffs in the above captioned matter. Please accept this status report and letter motion to withdraw as counsel for Daniel Sante, one of the named Plaintiffs and class representatives.

Status Report

The terms of the settlement have been agreed upon. The inability to locate one of the class representatives has prevented the execution of the documents necessary to finalize the settlement.

Motion to Withdraw

Local Civil Rule 1.4 states that:

An attorney who has appeared as attorney of record for a party may be relieved... only by order of the Court... Such an order may be granted only upon a showing by affidavit or otherwise satisfactory reasons for withdrawal... and the posture of the case, including its position, if any, on the calendar and whether or not the attorney is asserting a retaining or charging lien. All applications to withdraw must be served upon the client and (unless excused by the Court) upon all other parties.

In this District, “[i]t is well-settled that a lawyer may seek to withdraw when the client renders it unreasonably difficult for the lawyer to carry out such employment effectively.”

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United States v. Lawrence Aviation Indus., No. 06-CV-4818, 2011 WL 601415, at *1 (E.D.N.Y. Feb. 11, 2011) (internal quotation marks and alterations omitted). In this regard, satisfactory reasons for withdrawal include “a client’s lack of cooperation, including lack of communication with counsel.” *Naguib v. Pub Health Solutions*, No. 12-CV-2561, 2014 WL 2002824, at *1 (E.D.N.Y. May 15, 2014) (granting a withdrawal motion where the client refused to communicate and cooperate with counsel).

On September 27, 2019 my Case Coordinator, Kristell Barrera, called Daniel Sante at his mobile phone. The telephone number was no longer in service.

On September 27, 2019 Kristell Barrera called Daniel Sante at his home phone. The phone number was restricted and unavailable.

On October 1, 2019 we called known acquaintances of Daniel Sante. We were informed that Mr. Sante is no longer in the United States and has returned to El Salvador.

On October 1, 2019 Kristell Barrera mailed a letter for Daniel Sante at his address on file via certified mail, return receipt requested, requesting that he contact our office immediately. The return receipt was returned unsigned on October 9, 2019.

On October 10, 2019 phone calls to Daniel Sante at his cell phone and home phone numbers were placed by Kristell Barrera with the same results as on September 27, 2019.

On October 22, 2019 we reviewed the tracking information on the letter mailed on October 1, 2019. The US Postal Service confirmed delivery of the letter on October 7, 2019.

On November 4, 2019 Kristell Barrera called Daniel Sante’s home telephone number. That number was not in service. Ms. Barrera also called Mr. Sante’s cell phone number, which was then a working number. She left a message for him to contact the office.

On November 4, 2019 a representative of the firm traveled to Mr. Sante’s last known address and spoke with a current tenant. The tenant stated that Mr. Sante does not reside at the address.

On the evening of November 4, 2019, a representative of the firm returned Mr. Sante’s last known address. A letter was left asking Mr. Sante to contact our office.

As of the date of this application, we have not received any response from Mr. Sante.

The withdrawal from representation will permit the settlement to be consummated.

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Respectfully submitted,

/s/
Steven J. Moser